

REGISTER



South Dakota Legislative Research Council

Volume 39

Monday, 8:00 a.m., June 10, 2013

NOTICE OF PROPOSED RULES: (None)

NOTICE:

The **South Dakota Lottery** is ending instant ticket game number 428 – Big Foot Bingo. The last day that prizes will be paid for this game is November 28, 2013.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF AGRICULTURE: SOUTH DAKOTA WEED AND PEST CONTROL COMMISSION: 12:62:03:01.07.

History-Notice: 39 SDR 147, March 4, 2013
Hearing: April 11, 2013
Filed: June 4, 2013
Effective: June 24, 2013

DEPARTMENT OF LABOR AND REGULATION: SOUTH DAKOTA BOARD OF ACCOUNTANCY: 20:75:03:08, 20:75:03:10; 20:75:05:01, 20:75:05:05 to 20:75:05:08, inclusive, 20:75:05:17; 20:75:07:01, and 20:75:07:08.

History-Notice: 39 SDR 179, April 29, 2013
Hearing: May 13, 2013
Filed: June 4, 2013
Effective: June 24, 2013

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: BOARD OF MINERALS AND ENVIRONMENT: 74:36:01:01, 74:36:01:05, 74:36:01:20; 74:36:02:02 to 74:36:02:05, inclusive; 74:36:03:01, 74:36:03:02; 74:36:04:04, 74:36:04:05, 74:36:04:12 to 74:36:04:15,

inclusive; 74:36:05:04, 74:36:05:06,
74:36:05:07, 74:36:05:16.01, 74:36:05:20.01,
74:36:05:20.02; 74:36:07:01 to 74:36:07:07.01,
inclusive, 74:36:07:09, 74:36:07:10,
74:36:07:12 to 74:36:07:28, inclusive,
74:36:07:31 to 74:36:07:34, inclusive,
74:36:07:36, 74:36:07:37, 74:36:07:39 to
74:36:07:92, inclusive; 74:36:08:01 to
74:36:08:130, inclusive; 74:36:09:02,
74:36:09:03; 74:36:10:02, 74:36:10:03.01,
74:36:10:05 to 74:36:10:10, inclusive;
74:36:11:01; 74:36:12:01 to 74:36:12:03,
inclusive; 74:36:13:02 to 74:36:13:04, inclusive,
74:36:13:06 to 74:36:13:08, inclusive;
74:36:16:01, 74:36:16:02, 74:36:16:04,
74:36:16:05; 74:36:18:04 to 74:36:18:06,
inclusive, 74:36:18:10 to 74:36:18:12, inclusive;
74:36:20:05, 74:36:20:11, 74:36:20:13 to
74:36:20:15, inclusive; 74:36:21:02,
74:36:21:04, 74:36:21:05, and 74:36:21:09.

History-Notice: 39 SDR 179, April 29, 2013
Hearing: May 16, 2013
Filed: June 5, 2013
Effective: June 25, 2013

DEPARTMENT OF LABOR AND REGULATION: DIVISION OF LABOR AND MANAGEMENT: 47:03:05:01, 47:03:05:02, 47:03:05:05, and Appendix B.

History-Notice: 39 SDR 167, April 8, 2013
Hearing: May 9, 2013
Filed: June 6, 2013
Effective: June 26, 2013

DEPARTMENT OF LABOR AND REGULATION: DIVISION OF INSURANCE: 20:06:01:05; 20:06:05:01, 20:06:05:02; 20:06:08:38; 20:06:12:03 to

20:06:12:07, inclusive; 20:06:13:44 to 20:06:13:47, inclusive; 20:06:16:01; 20:06:18:04.01, 20:06:18:05.02; 20:06:19:04; 20:06:22:03 to 20:06:22:05, inclusive; 20:06:25:01 to 20:06:25:02, inclusive; 20:06:26:01; 20:06:36:01, 20:06:36:04, 20:06:36:05; and 20:06:40:74.

History-Notice: 39 SDR 175, April 22, 2013
Hearing: May 13, 2013
Filed: June 6, 2013
Effective: June 26, 2013

DEPARTMENT OF REVENUE: SOUTH DAKOTA LOTTERY COMMISSION:
48:02:01:01 and 48:02:08:01.

History-Notice: 39 SDR 175, April 22, 2013
Hearing: May 15, 2013
Filed: June 6, 2013
Effective: June 26, 2013

DEPARTMENT OF HEALTH: BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY: Article 20:79.

History-Notice: 39 SDR 168, April 8, 2013
Hearing: May 15, 2013
Filed: June 7, 2013
Effective: June 27, 2013

DEPARTMENT OF SOCIAL SERVICES: DIVISIONS OF ECONOMIC ASSISTANCE AND MEDICAL SERVICES: 67:10:02:01; 67:10:05:17; 67:10:06:12, 67:10:06:24; 67:10:07:01; 67:13:01:02, 67:13:01:05, 67:13:01:06, 67:13:01:11, 67:13:01:13, 67:13:01:17, 67:13:01:17.01; 67:13:03:21; 67:16:01:25; and 67:16:09:05.

History-Notice: 39 SDR 180, April 29, 2013
Hearing: May 14, 2013
Filed: June 7, 2013
Effective: June 27, 2013

DEPARTMENT OF SOCIAL SERVICES: DIVISION OF CHILD CARE SERVICES:
67:42:03:01, 67:42:03:04.01, 67:42:03:06,

67:42:03:07.01 to 67:42:03:07.05, inclusive, 67:42:03:08, 67:42:03:08.01, 67:42:03:11.03, 67:42:03:11.05, 67:42:03:11.06, 67:42:03:11.08, 67:42:03:11.10, 67:42:03:12, 67:42:03:13, 67:42:03:16, 67:42:03:20, 67:42:03:23; Chapter 67:42:04; 67:42:10:00 to 67:42:10:02, inclusive, 67:42:10:05 to 67:42:10:22, inclusive, 67:42:10:24; 67:42:11:01, 67:42:11:02, 67:42:11:04 to 67:42:11:07.02, inclusive, 67:42:11:09, 67:42:11:12 to 67:42:11:14, inclusive, 67:42:11:16 to 67:42:11:19, inclusive, 67:42:11:21, 67:42:11:22, 67:42:11:26 to 67:42:11:28, inclusive, 67:42:11:30 to 67:42:11:35, inclusive, 67:42:11:39, 67:42:11:42; 67:42:14:01 to 67:42:14:08, inclusive, 67:42:14:10 to 67:42:14:14, inclusive, 67:42:14:18, 67:42:14:19, 67:42:14:21, 67:42:14:23, 67:42:14:24, 67:42:14:28; and Chapter 67:42:16.

History-Notice: 39 SDR 180, April 29, 2013
Hearing: May 14, 2013
Filed: June 7, 2013
Effective: June 27, 2013

DEPARTMENT OF SOCIAL SERVICES: DIVISION OF CHILD PROTECTION SERVICES:

67:42:01:01, 67:42:01:02, 67:42:01:04 to 67:42:01:07, inclusive, 67:42:01:09 to 67:42:01:14, inclusive, 67:42:01:16 to 67:42:01:18, inclusive, 67:42:01:21 to 67:42:01:24, inclusive, 67:42:01:28, 67:42:01:33 to 67:42:01:36, inclusive; 67:42:05:01 to 67:42:05:04, inclusive, 67:42:05:06, 67:42:05:06.01, 67:42:05:10.02 to 67:42:05:10.04, inclusive, 67:42:05:10.07, 67:42:05:11 to 67:42:05:13, inclusive, 67:42:05:15 to 67:42:05:18, inclusive, 67:42:05:20, 67:42:05:22; 67:42:07:03 to 67:42:07:05, inclusive, 67:42:07:08 to 67:42:07:10, inclusive, 67:42:07:12 to 67:42:07:14, inclusive, 67:42:07:16; 67:42:08:03 to 67:42:08:05, inclusive, 67:42:08:08, 67:42:08:10; 67:42:09:01, 67:42:09:08, 67:42:09:08.01, 67:42:09:10, 67:42:09:12 to 67:42:09:17, inclusive, 67:42:09:19, 67:42:09:20, 67:42:09:22,

67:42:09:24, 67:42:09:25, 67:42:09:27;
Chapter 67:42:12; 67:42:13:03, 67:42:13:07;
67:42:15:02, 67:42:15:05, 67:42:15:06,
67:42:15:15, 67:42:15:16, 67:42:15:19,
67:42:15:24, and 67:42:15:25.

History-Notice: 39 SDR 181, April 29, 2013
Hearing: May 14, 2013
Filed: June 7, 2013
Effective: June 27, 2013

**GOVERNOR'S OFFICE OF ECONOMIC
DEVELOPMENT: BOARD OF
ECONOMIC DEVELOPMENT:** 68:02:07:01
to 68:02:07:16, inclusive; 68:02:08:01 to
68:02:08:13, inclusive; 68:02:09:01 to
68:02:09:13, inclusive; and 68:02:10:01 to
68:02:10:17, inclusive.

History-Notice: 39 SDR 179, April 29, 2013
Hearing: May 13, 2013
Filed: June 7, 2013
Effective: July 1, 2013

**SECRETARY OF STATE: BOARD OF
FINANCE:** 5:01:01:01; 5:01:07:05, 5:01:07:07,
and 5:01:07:11.

History-Notice: 39 SDR 187, May 6, 2013
Hearing: May 21, 2013
Filed: June 7, 2013
Effective: June 27, 2013

Executive Appointments:

Donald F. Montileaux, Rapid City, was
reappointed on May 30, 2013, to the **State Arts
Council**, effective immediately and shall
continue until June 30, 2016.

Robert L. Morris, Belle Fourche, was
appointed on May 30, 2013, to the **Board of
Minerals and Environment**, to replace
Michael Day, effective immediately and shall
continue until June 30, 2017.

Correction Filed on May 31, 2013:

James A. Speirs, Sioux Falls, was reappointed
on May 29, 2013, to the **State Arts Council**,
effective July 1, 2013, immediately and shall
continue until June 30, 2016.

Executive Order:

The Governor has signed **Executive Order
2013-08**, dated May 31, 2013. This order
declares an emergency due to the severe
flooding and damage to infrastructure in the
affected areas stricken by the heavy rainfall
starting on May 24, 2013. Under the authority of
the Emergency Management law, the Governor
has made the resources of state government
available to support county governments in their
flood recovery efforts. The resources may be
utilized under the coordination of the
Department of Public Safety, Office of
Emergency Management.

Executive Proclamation:

The Governor has issued an **Executive
Proclamation** to convene the South Dakota
Legislature in a special session according to
Article IV, Section 3 of the South Dakota
Constitution. The purpose of the special session
is to appropriate monies and provide
expenditure authority for, and to otherwise
facilitate, the development, construction,
maintenance, and operation of a veterans home
near Hot Springs, South Dakota. The special
session will begin in the chambers of the Senate
and House of Representatives on Saturday,
June 22, 2013, at 10:30 a.m., Central Daylight
Savings Time.

Note: A copy of the rules may be obtained directly from
the above agencies. Write to the agency at the address
given under "Notices of Proposed Rules." There is no
charge for proposed rules. The following agencies have
permission from the Interim Rules Review Committee to
charge for adopted rules: the Division of Insurance, the
Cosmetology Commission, the State Board of Examiners
in Optometry, the State Plumbing Commission, the Board
of Nursing, the Department of Social Services, the State
Electrical Commission, the South Dakota Board of

Pharmacy, the Real Estate Commission, the Gaming
Commission, the Department of Revenue and Regulation,

and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

6-18-2013	Department of Social Services: Division of Medical Services	Amend rules to remove outdated payment rate calculation information for in-state inpatient services and certain outpatient services; clarify that reimbursement for out-of-state hospital inpatient services and certain outpatient services is calculated at a percentage of charges as appropriated by the legislature, and specify that the dispensing fees for certain items dispensed by a pharmacy or public health service provider can be found on the department's website; 39 SDR 211.
6-27-2013	Environment and Natural Resources: Board of Water and Natural Resources (As amended June 4, 2013)	Amend Director Areas in Water Development Districts rules to redraw the director areas in the James River, East Dakota, and West Dakota Water Development District areas; amend Consolidated Water Facilities Construction Program rules to allow applicants to receive funding for project design activities without being placed in the state water facilities plan <u>allow projects that have received funding from the board to remain in the state water facilities plan for the purpose of requesting additional funding</u> , remove application restrictions that prohibit a project receiving more than one grant and one loan in a program year, that require applicants that are not funded resubmit an application in order to compete in a subsequent application cycle, and that require a minimum of 40 percent local share of a total project cost unless waived, repeal the section describing the distribution of uncommitted funds, require applicants to submit forms on an application provided by the department, revise the application review process to include eliminating the minimum rate requirement and the related waiver process, include televising and cleaning of sewer lines as an eligible expense, revise the factors for decision making, extend the time allowed to use funds from 3 years to 4 years, revise the provision that the department conduct an overall review of the applicant's financial status, repeal the provision that the

		<p>board may require an environmental statement, repeal the technical requirements regarding land surveys, plans and specification preparation, and the establishment of monitoring wells, and update or eliminate incorrect statute references and make other minor grammatical changes; amend State Water Pollution Control Revolving Fund Program rules to allow applicants to receive funding for project design activities without being placed in the state water facilities plan, allow projects that have received funding from the board to remain in the state water facilities plan for the purpose of requesting additional funding, repeal the duplicative requirement for the preparation of plans and specifications, allow applicants to be awarded solid waste management funds in lieu of or in an addition to funds from State Revolving Pollution Control Revolving Fund program, allow all nonpoint source projects to receive principal forgiveness without meeting the minimum established rate, repeal the requirement that a financial status be prepared and provided to the board before a loan is executed and make the financial status review and preparation part of the application review process, and update or correct references to the Clean Water Act authorizing legislation, census data, and state statutes and make other minor grammatical changes; amend Solid Waste Management Program rules to repeal the provision that requires a minimum of 40 percent local share of a total project cost, repeal the requirement that a financial status be prepared and provided to the board before a loan is executed and make the financial status review and preparation part of the application process, discontinue using the price for recyclable materials as a criteria on which to base interest rates and begin using the current rate of alternate federal or state programs as a criteria, repeal the provision that requires the applicant to provide proof of certain permits prior to disbursement of funds, repeal the provision that the board may require an environmental statement, repeal the technical requirements regarding land surveys and plans and</p>
--	--	---

		specification preparation, revise the period for drawing funds from two years with a one-year extension with board approval to three years, repeal the section describing the distribution of uncommitted funds, eliminate the board's ability to waive the required debt coverage ratio due to financial hardship, require recipients to maintain proper accounting records, and update or correct statute references and make other minor grammatical changes; and amend Drinking Water State Revolving Fund Program rules to allow applicants to receive funding for project design activities without being placed in the state water facilities plan, allow projects that have received funding from the board to remain in the state water facilities plan for the purpose of requesting additional funding, repeal the duplicative requirement regarding plans and specification preparation, repeal the requirement that a financial status be prepared and provided to the board before a loan is executed and make the financial status review and preparation part of the application review process, make principal forgiveness available to disadvantaged communities, and update or correct references to the Drinking Water Act authorizing legislation, census data, and state statutes and make other minor grammatical changes; 39 SDR 201.
7-12-2013	Health: Board of Pharmacy	Amend rules to establish the ability of pharmacies to retain health records, including prescription orders, in an electronic format; 39 SDR 211.
8-15-2013	Environment and Natural Resources: Board of Minerals and Environment	Update the state's existing hazardous waste rules by incorporating updated federal regulations by reference. These updates reflect changes made to the federal hazardous waste rules from July 1, 2010 through June 30, 2012. Changes include establishing procedures for identifying and managing certain hazardous secondary materials destined for recycling, and making technical and typographical corrections to the federal rules; 39 SDR 201.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, July 9, 2013, in Room 413, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2013 interim: August 20, September 17, November 12, and December 17.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.

The **South Dakota Register**, ISSN 0191-1104, is published by the South Dakota Legislative Research Council pursuant to SDCL 1-26A-1. Subscriptions to Volume 39 are \$25. Make checks payable to "State of South Dakota" and mail to the Legislative Research Council, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070. Information from the Register is available free of charge on the Internet at <http://legis.state.sd.us>. Subscribe to receive electronic notification of the availability of the **South Dakota Register** at **MyLRC** (<http://legis.state.sd.us/mylrc/index.aspx>).